



United States  
Department of  
Agriculture

Food and  
Consumer  
Service

Mountain  
Plains  
Region

1244 Speer Boulevard  
Denver, CO  
80204-2581

Reply to  
Attn of:

SP-02-24

JUN 28 2002

Subject:

Food and Nutrition Service (FNS) Guidance Responding to the  
Department of Agriculture, Office of the Inspector General (OIG),  
Report No. 27601-0027-CH, April 2002

To:

STATE AGENCY DIRECTORS – Colorado ED, Colorado SS, Iowa, Kansas,  
(Special Nutrition Programs) Missouri ED, Montana OPI, Nebraska ED,  
Nebraska SS, North Dakota, South Dakota,  
Utah and Wyoming

Recently the Department's OIG concluded its audit and released its report on food service management company (FSMC) participation in the National School Lunch Program (NSLP). FNS agrees with OIG conclusions that significant issues relating to FSMC contracts must be addressed. Most importantly, FNS is concerned with the audit's conclusion that existing regulations, policies and guidance are not followed by State agencies, school food authorities (SFAs) and FSMCs in operating the NSLP.

In part, OIG recommended that FNS clarify its regulations regarding appropriate contract terms for SFAs to use in contracting with FSMCs under the NSLP. As we made clear in our response to OIG, changes that would mandate specific provisions for these contracts will require regulatory action. We intend to publish a proposed rule to effect those specific provisions early in Fiscal Year 2004. Additionally, we will update the current FSMC handbooks to reflect existing regulations and policy and redistribute these handbooks by the end of March 2003.

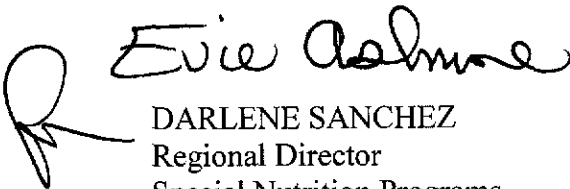
FNS will issue policy guidance by the end of August 2002 reaffirming existing regulations and guidance in three areas of concern identified in the OIG audit. First, the guidance will confirm that the benefit of USDA commodities must accrue to the nonprofit school food service account and existing SFA contracts with FSMCs must be reviewed for compliance with current regulations (7 CFR Parts 250.12(d) and 210.16(a)(6)). Second, we will reemphasize the importance of school food authorities maximizing the effective use of nonprofit food service accounts through their contracts with food service management companies. Accordingly, we expect our guidance to strongly encourage SFAs to include specific provisions in their contracts with FSMCs

requiring that all acquisitions funded in whole or in part with nonprofit food service account funds must be competitively procured and that costs charged under cost reimbursable contracts be reimbursable only to the extent that they are allowable costs net of all credits, discounts or rebates. Finally, FNS Regional Offices will receive guidance to follow to ensure that State agencies have procedures in place so that SFAs contracting with FSMCs maintain reliable meal accountability systems.

Recognizing the limited time frame for drafting this policy guidance and the interests of State agencies, SFAs and FSMCs in these clarifications, we are requesting suggestions on the nature of the clarifications that would be most helpful. Please bear in mind that the clarifications are just that a reflection of current regulations, policy and guidance, rather than new policy or guidance. The suggestions that are received will be considered with that requirement in mind but we do not intend to respond to or incorporate all suggestions. Suggestions for this guidance must be submitted no later than August 1, 2002 to:

Stanley C. Garnett, Director  
Child Nutrition Division  
USDA Food and Nutrition Service  
Room 640  
3101 Park Center Drive  
Alexandria, Virginia 22302

We ask that State agencies issue this memorandum to SFAs as soon as possible and that both State agencies and SFAs distribute this memorandum to FSMCs in their areas. If you have any questions, please contact our office.



DARLENE SANCHEZ  
Regional Director  
Special Nutrition Programs